



144869

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CERRO COPPER PRODUCTS )  
COMPANY, )

Plaintiff, )

vs. )

92-CV-204-WDS

MONSANTO COMPANY and )  
MONSANTO CHEMICAL )  
COMPANY, )

Defendants. )

DEPOSITION OF JOSEPH GRANA

VOLUME II

Taken behalf of Defendants  
May 25, 1994

Victoria L. Pohlman, CSR/RPR  
CSR license #084-003146

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P O H L M A N & M O R R I S  
R E P O R T I N G C O M P A N Y  
CERTIFIED SHORTHAND REPORTERS

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1 to keep the water out, once the excavation  
2 commenced?

3 A. Yeah.

4 Q. Now, it indicates here that the  
5 land disposal restrictions become  
6 effective -- I'm talking about Page 2, on May  
7 8th. It gives a deadline for landfill of  
8 November 8th, 1990. Now, that deadline, that  
9 became a deadline that you, meaning Cerro,  
10 established to try to get everything into the  
11 ground before November 8th, 1990; isn't that  
12 true?

13 A. That's correct.

14 Q. And that was in order to avoid  
15 the land banned (phonetic) issue?

16 A. That's correct.

17 [Whereupon, the reporter marked  
18 Grana Deposition Exhibit No. 27 for  
19 identification.]

20 Q. (By Mr. Nassif) Mr. Grana, let  
21 me show you what's been marked as Grana  
22 Exhibit Number 27, which is C-numbered 261-5,  
23 and re-numbered 040250. Now, you talk about  
24 a formality there, and you're sending a copy  
25 of this to Max McCombs.

1 and how you handle the material.

2 Q. I think I saw a document that  
3 identified, I think the five organics.

4 A. Yes, there's five organics. I  
5 think a chlorobenzene, and chlorophenol, --

6 Q. Maybe we'll come across it. I  
7 think I may have marked it.

8 A. Yes.

9 Q. Going back to Grana Number 29,  
10 on the second page, it says, Mr. Rodburg says  
11 "Our whole program has been geared to  
12 completing the work no later than November  
13 8th, 1990." That is, again, the reference to  
14 the land banned date?

15 A. Yes, sir.

16 Q. Obviously, any delay --  
17 "Obviously, any delay of even modest  
18 proportion will have a substantial  
19 detrimental impact." There's no question in  
20 your mind, he's talking about finances,  
21 right; isn't he, that the substantial  
22 detrimental impact is a financial one?

23 A. No, meaning that deadline.

24 Q. No, if you didn't meet it, you'd  
25 have a substantial financial impact; is that

1 right?

2 A. What he's saying, it would have  
3 a detrimental impact on meeting that  
4 deadline.

5 Q. Okay. The cleanup, meaning that  
6 deadline?

7 A. That's correct, the removal of  
8 putting the material in the landfill.

9 Q. Okay. You could have still  
10 disposed of that material after November 8th;  
11 couldn't you? You would just have had to  
12 find a different way to dispose of it; isn't  
13 that your understanding?

14 A. That's my understanding, yes.

15 Q. But you don't think he's  
16 referring to a substantial increase in cost  
17 if you don't make that deadline?

18 A. He could be referring to that,  
19 yes.

20 Q. Okay. Did you get quick  
21 responses to your -- to the plan that you  
22 sent, if you recall, in the I-EPA?

23 A. I believe we did. It was all  
24 wrapped up a month later, by July 5th.

25 Q. Okay. When you removed the

1 with the commencement of the cleanup, and the  
2 consent decree with the state, and then I  
3 think there was a second press release that  
4 might have went out at the time that the  
5 cleanup was completed?

6 A. I believe this is a draft.

7 Q. But my question is: Were there  
8 two situations where the cleanup was -- there  
9 was a press release that was sent out, as you  
10 recall before, at the time the consent decree  
11 was reached, and then after the cleanup was  
12 completed, a second press release went out?

13 A. I'm not sure about the second.  
14 I remember the first, definitely. There  
15 might have been a second one.

16 Q. In fact, there was a press  
17 conference held at the site or about the  
18 site; wasn't there, at the time the consent  
19 decree was signed?

20 A. Yes, sir.

21 Q. And did you participate in that  
22 conference?

23 A. I stood there and looked pretty.

24 Q. This is a draft. Now,  
25 Fleishman-Hillard would be working for Cerro

1 received these documents, and the 30-day  
2 comment period, as referenced in this notice,  
3 was available, the decision to use the  
4 landfill option was clearly already in the  
5 documents that the public was reading?

6 A. Yes, sir.

7 Q. Did you receive any written  
8 comments, if you can recall?

9 A. I never recall receiving a  
10 written comment.

11 Q. And you would have been the one  
12 receiving them?

13 A. If they came in, they would have  
14 come to Mr. Tandler, and he would have passed  
15 them on to me.

16 Q. You think --

17 A. I just remember getting one  
18 request or two requests, and I think it was  
19 from a high school girl doing a project on  
20 it.

21 Q. And if Mr. Tandler had gotten a  
22 written comment, you're pretty certain you  
23 would have received a copy of it?

24 A. Basically, yeah.

25 Q. I have a series of the

1 COUNTY OF ST. LOUIS)  
SS )  
2 STATE OF MISSOURI )

3  
4 NOTARIAL CERTIFICATE

5 I, VICTORIA L. POHLMAN, a  
6 Registered Professional Reporter and a duly  
7 commissioned Notary Public do hereby certify  
8 that there came before me at the law offices  
9 of the Kohn, Shands, Elbert, Gianoulakis, &  
10 Giljum, One Mercantile Center, St. Louis,  
11 Missouri,

12 JOSEPH GRANA,

13 who was by me first duly sworn to testify to  
14 the truth and nothing but the truth of all  
15 knowledge touching and concerning the matters  
16 in controversy in this cause; that the  
17 witness was thereupon carefully examined  
18 under oath and said examination was reduced  
19 to writing by me; and that this deposition is  
20 a true and correct record of the testimony  
21 given by the witness.

22 I further certify that I am  
23 neither attorney nor counsel for nor related  
24 nor employed by any of the parties to the  
25 action in which this deposition is taken;  
further, that I am not a relative or employee  
of any attorney or counsel employed by the  
parties hereto or financially interested in  
this action.

IN WITNESS WHEREOF, I have  
hereunto set my hand and seal this 2nd day of  
June, 1994.

My commission expires November 11,  
1996.

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[Notary Public]